SUPREME COURT, U.S.
FILED
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OFFICE OF THE CLERK

No. ____

In The

# Supreme Court of the United States

ANNIE MAE SCALES,

*Petitioner,*

v.

STATE OF NEVADA AND MICHAEL STACK,

*Respondents.*

**On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit**

## PETITION FOR A WRIT OF CERTIORARI

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25pp

## QUESTIONS PRESENTED FOR REVIEW

1. Were the petitioner's due process of law Fifth and Fourteenth Amendments violated when she was deprived of her liberty for 7 days because she refused to go use the bathroom and record how it felt ("masturbate"), petitioner was never arrested, never read Miranda rights, petitioner was tried and convicted 10-13-99, put in jail 4-14-00, then only at that time was she booked and fingerprinted?

2. Were the Petitioner's rights under Sixth Amendment Confrontation Clause violated when she met her court ordered lawyer on the day of the trial, petitioner attempted to give him evidence that would have dismissed the case?

3. Was a bail of 50000-50000-100000 excessive and violated Eighth Amendment Cruel and Unusual Punishment for refusing the court order of masturbation?

4. Were Petitioner's Equal Protection Under the Law, Fourteenth Amendment violated when Petitioner saw the police report for the first time 7-21-00, after case closed and Petitioner learned that the white woman who filed the stalking charges did not live or work in the alleged crime scene area?

5. Did the State of Nevada impose a 50000-50000-100000 excessive bail for Contempt of court without proving its case beyond a reasonable doubt, the convicting judge, whom the law gives immunity except where no crime was committed decided the verdict, petitioner did not have a Trial by Jury?

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## CITATION TO OPINION

The United States Court of Appeals dismissed the case 12-06-01 and sent a letter dated January 24, 2002, a petition for writ of certiorari should be directed to The Supreme Court, 1 First Street, N.E., Washington, DC 20543, (202) 479-3011. The style of the case was *Scales v. Stack*. The letter is reproduced in the Appendix. The dismissal from the District Court of Nevada is also reproduced.

## JURISDICTION

The Court has jurisdiction of the case because the United States Court of Appeals wrote a letter giving the Court jurisdiction. By statute the Court is authorized to grant certiorari in any case that is from a federal court of appeals. The District Court of Nevada dismissed the case October 12, 2001, but sent a letter dated August 24, 2001 writing Scales' name wrong and misspelling her name on the same page. Showing how apathetic the District Court was.

## CONSTITUTIONAL PROVISIONS

The Fifth and Fourteenth Amendments provide respectively, neither the federal government nor the state shall deprive any person of life, liberty, or property, without due process of law.

The Sixth Amendment guarantees that a person accused of a crime shall be informed of the charges

against him or her an have the assistance of a lawyer; To be confronted with witnesses against him or her and given a chance to present her case.

The Eighth Amendment excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Fourteenth Amendment no state shall deny to any person within its jurisdiction the EQUAL PROTECTION OF THE LAWS.

## STATEMENT OF THE CASE

Scales' son Leonard K. Scales, who was stationed at China Lake Naval Base in Ridgecrest, CA called and informed her that she had a certified letter from the District Attorney's office in Las Vegas on 5-20-99. It was a warrant for her arrest for the crime of Stalking signed by Judge Jennifer P. Togliatti. Scales had been living in California City, CA with her brother John Jarrett since 2-20-99. 5-13-99, Dr. Shreck's nurse Julie called her brother's home. Scales called back and said "tell Julie to stop calling here." How did they know who called if they hadn't called Scales first. Scales' son got a signed statement from Roger K. Staten, mail clerk stating that letter had just been made known to them.

Scales will use the Court Report to state what happened. But first, Scales saw the police report written by Stack on 7-21-00 after she'd been tried and convicted 10-13-99, put in jail 4-14-00. Stack wrote that Michele Lentz was the victim, not Dr. Shreck. On that same police

report that Strack wrote, Mrs. Lentz didn't live or work in the alleged crime scene area. Mrs. Lentz was Scales accuser.

1-20-99, criminal complaint filed-stalking. (C.P. 1)[1] Who was Scales stalking. 1-20-99, was on a Wednesday. Dr. Shreck was off on Wednesdays and Mrs. Lentz worked for Dr. Pitterman. 1-22-99, Defendant not present in court-Summons in LIEU of arrest (C.P. 1) Scales was employed at El Jens Convalescence. Mrs. Lentz came into the facility 1-19-99, touched the medication cart. Scales was fired 1-30-99, no reason given.

Scales moved to California 2-20-99, not knowing anything about these charges against her. 2-25-99, initial arraignment-Defendant not present in court-BENCH warrant 2000/2000/4000. (C.P. 1)

Scales returned to Las Vegas to squash the warrant. 6-3-99, initial arraignment continues-Defendant present in court. (C.P. 1) When Scales was given the ridiculous charges all of the police officers ran out of the courtroom laughing. (See charges on page ?) Dr. Shreck had sent Scales two referral forms to Dr. Ruppert's office. One for her to have a mammogram and this one on page ? for her to see Dr. Stein. He paid for it, note the insurance company USA Health Network. Dr. Shreck is a wealthy white doctor and Scales is a black female. The State of Nevada was teaching Scales a lesson, "BIGOTRY." 6-4-99, Defendant present in court-Plea not guilty, set for trial, 8-4-99. (C.P. 1) 8-4-99, Scales came to court prepared to present

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[1] Reference to the Court Report will be in format of (C.P. 1, 2, 3 or 4) page number.

the referral form and ask Dr. Shreck what had happened to him. Scales didn't do anything to him. The case should've been dismissed. 8-4-99, Defendant didn't check in with Public Defender prior to court-Court orders Defendant to call Public defender one week before trial. (C.P. 1) The state took away Scales right to represent herself.

10-13-99, Judge Jennifer P. Togliatti introduced Scales to her lawyer, Mr. Rustley in court. Then she sent him to courtroom 4 to get a bad check. Scales has never written a bad check in her lifetime.

10-13-99, Defendant present in court-STATE WITNESSES: Michael Stack and Robert William. (C.P.1) Where was Mrs. Lentz she filed the charges. Stack testified to gifts that Scales had given Dr. Shreck, 12-31-97. Scales got Dr. Shreck's permission before she bought anything. Plus C. Lalli, prosecutor dropped a pair of slacks to the floor that had been altered and worn. Scales' court ordered lawyer couldn't give her a defense even if he'd wanted to. Four letters and five photos were booked into evidence. Scales had written Dr. Shreck because of that repeat mammogram. But the letters were meant to be amusing. We are adults. If Dr. Shreck would've read his own mail he would've done exactly what the prosecutor C. Lalli did, LAUGH.

There was a statement in the records signed by Dr. Shreck, dated 7-1-98. The Location of occurrence had been wiped out and stamped over by the police. Of course, Scales was living in Oak Harbor, WA from 6-22-98 to 10-9-98. Then Scales moved Harvey, LA. If Scales had

wanted to stalk Dr. Shreck, she would've stayed in Las Vegas.

10-13-99, court finds Defendant guilty-court orders Defendant to have a psychiatric evaluation done before sentencing, order to be done, if not done court will place Defendant into custody to have done – Defendant ordered to have no contact with Dr. Shreck and Ms. Lenty and Dr. Shreck's office to include by mail, phone, Electro-inc Device, Posting messages or Skywriting. (C.P. 2) "SKYWRITING" Scales left the courtroom knowing why Mr. Rustley was sent to get a bad check. Dr. Shreck was told that Scales was committing criminal acts. Who wouldn't believe Stack, he was the police.

Mr. Rustley called Scales 10-15-99, and gave her an appointment for her to see a doctor 1-3-00. Scales moved back to California. 12-13-99, Scales called Mr. Rustley and left messages for him to reschedule that appointment. Scales wouldn't have the money to stay in Las Vegas from 1-3-00 until sentencing 1-14-00. Plus Scales had a small claims court date for 1-10-00. Scales never heard from Mr. Rustley.

1-13-00, Scales returned to Las Vegas and went straight to see Mr. Rustley. He'd never received any messages. Scales also asked Mr. Rustley how to file an appeal for the second time. Mr. Rustley being very sarcastic, "Judge Togliatti will tell you in court tomorrow." 1-14-00, Judge Jennifer P. Togliatti yelled something about "Impulse Control." 1-14-00, Defendant present in court – sentenced to Legal Rehabilitation Services by correspondent – no contact with Dr. Shreck. (C.P. 2) Scales went back to California, to return to Las Vegas 4-14-00. When

she received that correspondent, she was instructed to go use the bathroom and record how it felt. "MASTURBATE."

Scales immediately returned that correspondence and wrote Shane Emerick. She called Legal Rehabilitation Services to let everyone know why she'd returned that correspondence. 4-14-00, Defendant present in court – Defendant told Legal Rehabilitation Services she wanted to file an appeal and didn't complete the counseling packet – Defendant did not contact Public Defenders to notify them. (C.P. 3) Scales has a copy of the letter sent to Shane Emerick. Defendant says Public Defender didn't have her in the computer. (C.P. 3) 4-13-00, Scales went over to Public Defenders' office; the clerk showed Scales on the computer where she wasn't a present client but they had Scales in the computer for a closed case in July, 1998. So the State of Nevada accused Scales of a crime July, 1998 assigned her to the Public Defenders' office, tried and convicted her, closed the case all while Scales was living in Oak Harbor, WA. Read the police report Stack wrote. The police were investigating Scales while she was living in Oak Harbor, WA.

4-14-00, court remands Defendant into custody and sets contempt hearing – Bail 50000/50000/100000. (C.P. 3) Scales is an Insulin Dependent Diabetic with a history of High Blood pressure in jail "NO SPECIAL TREATMENT." Scales became as sick as she could be. 4-18-00, Scales requested to see the doctor. Her blood pressure was taken for the first time, it was 160/120, a medical emergency. 4-20-00, Scales was released from 100000 bail to OR. She returned to California to do another correspondent given to her in court 4-20-00 by the Public Defender.

7-20-00, Defendant present in court – Legal Rehabilitation Services completed – case closed. See page ?. Scales wrote all through that packet, "getting to the Supreme Court to find out what the crime was." "False imprisonment," etc.

7-21-00, the Public Defenders' office gave Scales Dr. Shreck's home phone number, home address and his social security number. 1-14-00, NO CONTACT WITH DR. SHRECK. (C.P. 2) The alleged crime was Stalking and they gave Scales his home address, phone number and social security number. There was "no appeal on the case." The State wanted to give Scales a criminal record. But all they did were violate her civil rights.

8-4-99, the judge gave Scales a direct court order to call the Public Defender. Scales called on 10-6-99 and was given to Mr. Rustley. She called Mr. Rustley 10-8-99 and again on 10-11-99 trying to give him her evidence that would've dismissed the case. Mr. Rustley called Scales back 10-12-99 not to set up an appointment but to let Scales know that they would all be there reading letters.

When Scales saw the evidence for the first time, 7-21-00, it didn't include any letters only sentences taken out of content written by Mrs. Lentz. Four letters were booked into evidence, the District Attorney, C. Lalli were reading letters in court. Scales has the right to see and read every one of those letters.

The State didn't have a crime. Scales earned a BS Degree in Justice and Public Safety in 1989. Plus remember that old saying, "experience is the best teacher." In 1986 Scales had an altercation and she ended up in court. But the judge knew that she was telling the truth. His last

words were "You don't have to come back, unless you just want to see me." By the way, Judge Phelphs died and the police changed the outcome of that case. But they made one mistake. They entered a plea into the court records two days before Scales actually appeared in court.

## REASONS FOR GRANTING WRIT

1. **The Fifth and Fourteenth Amendments provide, respectively, that neither the federal government nor the state may deprive persons of life, liberty, or property without due process of law. The United States Court of Appeals and the District Court of Nevada dismissed the case. No crime was committed. The State of Nevada was just teaching Scales a lesson. The United States Court of Appeals wrote Scales a letter stating to just move on to the Supreme Court. The District Court of Nevada wrote Scales' name wrong and misspelled it on the same page. No serious court on this land would do that.**

There are avenues available to seek federal judicial review of the decisions of the state court in criminal cases, one is a convicted defendant has taken whatever appeals are available to him or her under state law.[2] The Constitution guarantees Due Process of Law, "no free man shall be imprisoned without Due Process of Law." No crime was committed. In *Rossana v. State*, 113 Nev. 375, 934 P.2d 1045 (1997). To prove the crime of aggravated stalking pursuant to NRS 200.575, state must show

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[2] Encyclopedia of the AMERICAN CONSTITUTION, pg. 521.

not only that defendant engaged in intentional conduct that caused specific result, but also that defendant threatened victim with intent to cause victim to be placed in reasonable fear of death or substantial bodily harm. What happened to Dr. Shreck. Scales moved to Oak Harbor, WA, from 6-22-98 to 10-09-98, then she moved to Harvey, LA. Scales was never arrested, never read Miranda rights. Stack testified to gifts Scales left for Dr. Shreck, 12-31-97. Scales asked Dr. Shreck before she bought anything. Four letters and five photos were booked into evidence. Significance; Scales was presented with photos of wrapped gifts and wasn't shown any letters at all. *United States v. Nilsen,* 482 F Supp 1335 (DC NJ 1980). Timeliness or staleness of information establishing probable cause must be measured by nature and regularity of unlawful activity. What was the unlawful activity? The slacks had been altered and worn, a tagged place on them, brought into a court of law to prove the crime of stalking.

**2. Scales' rights under the Sixth Amendment confrontation clause were violated when she met her court ordered lawyer for the first time on the day of the trial. She attempted to give him evidence that would've dismissed the case twice in court.**

Most of the evidentiary requirements of a fair trial are now subsumed under the confrontation and compulsory process clauses of the Sixth Amendment, which as incorporated into the Fourteenth Amendment are applied to the states. The accused person is permitted to confront and question witnesses for the prosecution. Scales had as evidence a referral form Dr. Shreck sent to her. Scales attempted to give the referral form to Mr.

Rustley. The state gave Scales a direct order to call the Public Defenders office. Scales even tried to hire a private lawyer, they all refused. The State of Nevada was teaching Scales a lesson. *United States v. Gebbie,* 185 FRD 516 (SD Ohio 1999). Trial courts may permit criminal defendants to waive their Sixth Amendment right to effective assistance of counsel. Scales could've done a better job defending herself. 4-13-00, the Public Defender didn't even have Scales as a client. *Gannett Co. v. Depasquale,* 443 U.S. 368, 61 L.Ed.2d 608, 99 S.Ct. 2898, 5 Media L.R. 1337 (1979). Sixth Amendment's guarantees to accused rights to speedy trial, public trial, trial by jury, to notice of the accusation against him, to confront witnesses, and to have assistance of counsel. Scales met Mr. Rustley on the day of the trial. Scales was given the police report written by Stack and the evidence where Mrs. Lentz wrote, taking sentences out of content by the Public Defenders, that she'd never seen before 7-21-00. So Mr. Rustley wasn't suppose to defend Scales. *People v. Mckenzie,* 34 Cal.3d 616, 194 Cal. Rptr. 462, 668 P.2d 769 (1983). Defendant was denied effective assistance of counsel where appointed public defender failed to participate in trial of defendant. C. Lalli gave Dr. Shreck a letter to read in court. Dr. Shreck hadn't seen that letter before. Scales asked Mr. Rustley to let her see that letter, he just ignored her. *State v. Chighizola,* 281 So.2d 702 (LA 1973). Persons charged with misdemeanor, conviction of which could result in their imprisonment, have right to be assisted by counsel during every critical stage of their prosecution.

3. **Scales' rights to be free of cruel and unusual punishment, excessive bail not imposed was violated when the state of Nevada put her in jail under 50000/50000/100000 bail for refusing to go masturbate and record how it felt.**

"Today the Eighth Amendment prohibits punishment which, although not physically barbarous, involve the unnecessary and wanton infliction of pain, or grossly disproportionate to the severity of the crime."[3] The Eighth Amendment provides that "excessive" bail not be imposed. Scales is an Insulin Dependent Diabetic with a history of high blood pressure. The State of Nevada put her in jail under 50000/50000/100000 bail. *Coker v. Georgia,* 433 U.S. 584, 53 L.Ed.2d 982, 97 S.Ct. 2861 (1977). Punishment is "excessive" and unconstitutional if it (1) makes no measurable contribution to acceptable goals of punishment and hence is nothing more than purposeless and needless imposition of pain and suffering. Scales was released 4-20-00 from 100000 bail to O.R. *Hutto v. Finney,* 437 U.S. 678, 57 L.Ed.2d 522, 98 S.Ct. 2565 (1978), *reh. den.,* 439 U.S. 1122, 59 L.Ed.2d 83, 99 S.Ct. 1035 (1979). Eighth Amendment's ban on conflicting cruel and unusual punishment made applicable to states by Fourteenth Amendment, proscribes more than physically barbarous punishment; it prohibits penalties that are grossly disproportionate to offense, as well as those that transgress today's broad and idealistic concepts of dignity, civilized standards, humanity, and decency.

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[3] Encyclopedia of the AMERICAN CONSTITUTION, pg. 525.

On basis of due process clause of Fourteenth Amendment, cruel and unusual punishment clause of Eighth Amendment is fully applicable to states. *Robinson v. California*, 370 U.S. 660, 8 L.Ed.2d 758, 82 S.Ct. 1417 (1962), *reh. den.*, 371 U.S. 905, 9 L.Ed.2d 166, 83 S.Ct. 202 (1962); *Furman v. Georgia*, 408 U.S. 238, 33 L.Ed.2d 346, 92 S.Ct. 2726 (1972), *reh. den.*, 409 U.S. 902, 34 L.Ed.2d 163, 93 S.Ct. 89 (1972); *Gregg v. Georgia*, 428 U.S. 153, 49 L.Ed.2d 859, 96 S.Ct. 2909 (1976), *reh. den.*, 429 U.S. 875, 50 L.Ed.2d 158, 97 S.Ct. 197, 97 S.Ct. 198 (1976); *Proffitt v. Florida*, 428 U.S. 242, 49 L.Ed.2d 913, 96 S.Ct. 2960 (1976), *reh. den.*, 429 U.S. 875, 50 L.Ed.2d 158, 97 S.Ct. 197, 97 S.Ct. 198 (1976); *Jurek v. Texas*, 428 U.S. 262, 49 L.Ed.2d 929, 96 S.Ct. 2950 (1976), *reh. den.*, 429 U.S. 875, 50 L.Ed.2d 158, 97 S.Ct. 197, 97 S.Ct. 198 (1976); *Woodson v. North Carolina*, 428 U.S. 280, 49 L.Ed.2d 944, 96 S.Ct. 2978 (1976); *Roberts v. Louisiana*, 428 U.S. 325, 49 L.Ed.2d 974, 96 S.Ct. 3001 (1976), *reh. den.*, 429 U.S. 890, 50 L.Ed.2d 173, 97 S.Ct. 248 (1976).

**4. Scales' rights to equal protection under the law, Fourteenth Amendment was violated when she saw the police report 7-21-00, after being tried, convicted, put in jail. Her accuser a white woman didn't live or work in the area of the alleged crime scene. Scales was never questioned by the police, never arrested, never read Miranda Rights.**

No state shall deny to any person within its jurisdiction the EQUAL PROTECTION UNDER THE LAWS.[4] Stack never questioned Scales, she recognized him as the

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[4] Encyclopedia of the AMERICAN CONSTITUTION, pg. 757.

man following her everywhere. Scales was afraid. Why was this strange man following her. He would get on the bus with Scales and get off with her. Then someone else would take over. Scales realized on 10-13-99, that these were policeman, when Stack was called as a witness. Stack wrote that Mrs. Lentz was a victim in the police report that Scales saw for the first time 7-21-00. "Returned victims call." "Her cell phone broke up and we were disconnected, called her back and left my number." "Spoke to victim." "It sounds as though actions by the suspect have intensified to the point that this may be aggravated stalking." What actions, why didn't Stack arrest Scales. "12-14-98, booked gifts into evidence." Stack booked evidence that had been altered and worn. Is this a corrupt, racist policeman. "Phone Lentz, suspect was gone from Desert Springs Hospital when police arrived last week; additionally, victim received numerous hang up calls over the weekend and was advised on trace procedures." Why would Desert Springs Hospital call the police. Scales wrote the Administrator and asked, no one responded. Scales never called Mrs. Lentz except on the job for a patient complaint. Racism prevails here. Mrs. Lentz didn't live or work near Desert Springs Hospital. One great purpose of the Fourteenth Amendment was to raise colored race from that condition of inferiority and servitude in which most of them previously stood, into perfect equality of civil rights with all other persons within jurisdiction of states. *Ex parte Virginia*, 100 U.S. 339, 25 L.Ed. 676 (1880).

EQUAL PROTECTION clause of Fourteenth Amendment is principally designed to protect negros against

discriminatory action by states.[5] *Palmer v. Thompson*, 403 U.S. 217, 29 L.Ed. 438, 91 S.Ct. 1940 (1971). Fourteenth Amendment, like other Civil War Amendments, was primarily designed to outlaw racial discrimination by states (per Black, J., as Circuit Justice *J Karr v. Schmidt*, 401 U.S. 1201, 27 L.Ed.2d 797, 91 S.Ct. 592 (1971).

**5. Contempt isn't mentioned in the Constitution but the court has to explain how it came to exercise such power. The Supreme Court has imposed some constitutional limits: in criminal contempt the judge must find the defendant guilty beyond a reasonable doubt. Even if the contempt had been direct for the judge to inflict serious penalty the contemnor has had a trial by jury.**

Scales tried to follow every order given to her by the court. But to instruct a 50-year-old female to go use the bathroom and record how it felt, Masturbate was way beneath Scales. Any citizen of the United States over the age of 21 chooses his or her own sexual desires, but that is a private entity. The State of Nevada was teaching Scales a lesson. No crime was ever committed. Incarceration of those individuals who cannot pay established money bail, without meaningful consideration of other possible alternatives, infringes on both due process and equal protection requirements. *Pugh v. Rainwater*, 572 F.2d 1053 (CAS Fla. 1978). Scales' bail was set at 50000/50000/100000. Courts which have returned conviction for contempt must, in fixing amount of fine to be

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[5] Encyclopedia of the AMERICAN CONSTITUTION, pg. 492.

imposed as punishment or as means of securing future compliance, consider amount of defendant's financial resources and consequent seriousness of burden to particular defendant. *United States v. Mine Workers*, 330 U.S. 258, 91 L.Ed. 884, 67 S.Ct. 677, 19 BNA LRRM 2346, 12 CCH LC # 51239 (1947).

The judge in this case sent the warrant to California for stalking a person in Las Vegas. She was the trial judge, the convicting judge, the sentencing judge. She put Scales in jail under 50000/50000/100000 bail. She introduced Scales to her court ordered lawyer, she gave the direct order taking away Scales' right to defend herself. The law gives judges immunity. Judge's actions do not amount to "judicial acts" where it is beyond reasonable dispute that judge acts out of personal motivation and uses judicial office as offensive weapon to vindicate personal objectives and where it further appears certain that no party has invoked judicial machinery for purpose at all; such nonjudicial acts are not cloaked with judicial immunity from suit under 42 U.S.C. § 1983. *Harper v. Merckle*, 638 F.2d 848 (CAS Fla.), *cert. den.*, 454 U.S. 816, 70 L.Ed.2d 85, 102 S.Ct. 93 (1981). NO CRIME WAS EVER COMMITTED. Just before Judge Jennifer P. Togliatti put Scales in jail, she'd read letters. Scales wants to read those letters, maybe she can explain.

The NEVADA STATE BOARD OF NURSING used this conviction as basis for denying Scales renewal of her LICENSED PRACTICAL NURSING LICENSE. Scales has been an LPN for 25 years. She never had one patient complaint.

## CONCLUSION

This petition for writ of certiorari should be granted.

Respectfully submitted,

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(757) 224-0239

## APPENDIX

General Docket
US Court of Appeals
for the Ninth Circuit

01-16882 Scales v. Stack, et al

ANNIE MAE SCALES

Plaintiff-Appellant

v.

MICHAEL STACK; KATHRYN J. MOURNING;
LAS VEGAS POLICE DEPARTMENT;
CONNIE GONDULLA

Defendants-Appellees

Docket as of February 19, 2002 11:20 p.m.

* * *

11/14/01 Order filed: (PROSE) A review of the record demonstrates that this court lacks jurisdiction over this appeal because the 8/24/01 "notice of intention to dismiss" challenged in the appeal is not a final or appealable order. (CITES) Consequently, this appeal is dismissed for lack of jurisdiction. All other requests for relief are denied as moot. (Procedurally Terminated After Other Judicial Action; Jurisdictional Defects. Andrew J. KLEINFELD, M.M. MCKEOWN, Raymond C. FISHER) [01-16882] (dg)

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2762 El Dora Cir.
Unit B
Las Vegas, NV 89146

Confidential

Cathy A. Catterson, Clerk
U.S. Court of Appeals

Dear Ms. Catterson,

I have to move. Please contact me at the above address. I've been here with my sister for two years. I have to move back to Las Vegas. I don't have a choice. [Illegible], well I cannot live in fear.

I have a question. I read this information packet. I am supposed to send 10 copies of my brief and 5 copies of the excerpts of records [illegible] DO NOT send excerpts, not addressed with the District Court. I tried to send evidence to the District Court they addressed [illegible] numerous letters to the Court. So I am sending one copy of my evidence. I am pleading with the Court. I am not a lawyer. But you don't ask anyone to go [illegible] and when they refused they go to JAIL. Something is very wrong here. RACISM.

Please excuse my handwriting. I am diabetic, it is hard. My sister won't let me use her computer it is fixed now.

Sincerely,

Annie Mae Scales
/s/ Annie Mae Scales

Office of the Clerk
United States Court of Appeals
for the Ninth Circuit
95 Seventh Street, P.O. Box 193939
San Francisco, CA 94119-3939

October 12, 2001

TO: Annie Mae Scales
Apt. # 1
1676 Ontario Drive
Sunnyvale, CA 94087

[If they received the letter with my change of address why did they send this to my California address.]

FROM: Office of the Clerk
By: Donna Gilmour, Deputy Clerk

RE: Receipt of a Deficient Brief of appellant on 10/11/01.
U.S. Court of Appeals Docket Number: 01-16882
Short Title: Scales v. Stack

The referenced brief cannot be filed for the following reason(s):

* * *

**UNITED STATES DISTRICT COURT**
**DISTRICT OF NEVADA**

| | |
|---|---|
| ANNIE MAE SCALES,<br>Plaintiff,<br>vs.<br>MICHAEL STACK,<br>Defendants. | Case No.<br>CV-S-01-0437-DWH (PAL)<br>**ORDER**<br>(Filed Oct. 12, 2001) |

The Court informed Plaintiff that this action would be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure unless she provided proof of service upon all defendants by September 24, 2001. Notice #3. Plaintiff has not filed the required proof of service within the allotted time, nor has she filed any documents showing why good cause exists to excuse the failure to comply with Rule 4(m)'s 120-day time limit.

Plaintiff has filed a Notice of Appeal (#5), but the Court has not previously entered an order or judgment. The Notice of Appeal (#5) has no effect on this Order.

IT IS THEREFORE ORDERED that this action is **DISMISSED** without prejudice for Plaintiff's failure to comply with Rule 4(m) of the Federal Rules of Civil Procedure. The Clerk of the Court shall enter judgment accordingly.

DATED this 11th day of Oct., 2001.

/s/ David W. Hagen
DAVID W. HAGEN
United States District Judge